

**REMARKS**

Claims 9-35 are pending in this application and subject to restriction and/or election requirement. Restriction to one of the following inventions is required under 35 U.S.C. §121:

- I. Claims 9-29, drawn to an apparatus, classified in class 606, subclass 63.
- II. Claims 30-35, drawn to a method of use, classified in class 606, subclass 87.

Applicant hereby elects Group I, Claims 9-29, without traverse.

The applicant provisionally elects the species of Figures 8, 9, 12 and 13, on which claims 9-16 and 19-27 read. Upon the allowance of a generic claim, Applicants will be entitled to consideration of additional claims.

The Applicant has amended claims 9 and 24 to more fully describe the surgical instrument. Support for the amendments can be found on page 6, paragraph [33], lines 4-5 and 10-11, page 10, paragraph [51], lines 1-3, and page 65, paragraph [65], lines 1-2. From Figures 8, 12 and 13, one skilled in the art would understand that the cutting guide and tibial guide are used interchangeably with the expandable support and not simultaneously.

In view of the above, each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

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Respectfully submitted,

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